

**REMARKS**

Claims 1-40 are pending in the application. Claims 1-40 were rejected. Claims 1, 8, 10, 19, 20, 26, 32, 33, 39, and 40 are being amended. No new matter is being introduced by way of these amendments.

Claims 8 and 37 were rejected under 35 U.S.C. 112, first paragraph as failing to comply with the enablement requirement. Claims 8 and 37 are now amended in accordance with the suggested edits in part 5 of the office action at hand. Applicant thanks Examiner for the suggested edits.

Accordingly, Applicant respectfully submits that claims 8 and 37 should now be in condition for allowance under 35 U.S.C. 112, first paragraph.

Claims 1-40 were also rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's disclosed prior art in view of Allen et al. (USPN 5,495,455) and further view of Naimpally et al. (USPM 5,650,825).

Claim 1 is now amended to recite, "the system controller determining if the statistical data is up-to-date and accessing the at least one element for the statistical data only if the age of the statistical data in the controller is older than a predefined threshold indicating that the statistical data was not timely sent in place of a null response by the at least one element."

As described in part 3 of the office action at hand, Applicant is now expressly claiming an element described in the specification described in the specification on page 14, lines 1-10 that is not taught, suggested, or motivated in the cited references. Applicant thanks Examiner for his guidance in part 3. Accordingly, Applicant respectfully submits that the rejection under 35 U.S.C. § 103(a) is now moot.

Each of the other independent claims (claims 19, 20, 26, 32, 33, 39, and 40 ) are being amended in a similar manner.

Accordingly, each of these other independent claims should also be allowed under 35 U.S.C. 103(a) for similar reasons as now amended claim 1.

For at least the same reasons, the dependent claims 2-9, 11-18, 21-25, 27-31, and 34-38 should be allowed for at least the same reasons as the independent claims.

CONCLUSION

In view of the above amendments and remarks, it is believed that all now pending claims (claims 1-40) are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By Mark B. Solomon

Mark B. Solomon

Registration No. 44,348

Telephone: (978) 341-0036

Facsimile: (978) 341-0136

*by [Signature]*  
Reg. No. 31671

Concord, MA 01742-9133

Dated: 8/25/04